THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14394 of 2007

Dated: 21.03.2007

Between:

K. Prabhakar.

..... PETITIONER

AND

The Presiding Officer, Labour Court-III, Hyderabad and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.14394 of 1997

ORDER:

Assailing the award, dated 23.12.1996, passed by the Labour Court-III, Hyderabad, in I.D. No. 483 of 1993, denying the relief of reinstatement with continuity of service, backwages and other attendant benefits, the petitioner filed the present writ petition.

2. The petitioner was appointed as Skilled Operator in the 2nd respondent-Company in the year 1984. He was issued a charge sheet dated 15.04.1992 on the allegations of misconduct, insubordination and disobedience. He submitted his explanation on 27.04.1992, denying the said charges. Dissatisfied with the said explanation, an enquiry was conducted, and the Enquiry Officer, who conducted the enquiry, submitted his report, dated 29.07.1992 holding the petitioner guilty of the charges. Based on the said enquiry report, the 2nd respondent passed the dismissal orders, vide proceedings, dated 30.09.1992. Aggrieved by the said dismissal order, the petitioner raised an Industrial Dispute in I.D.No.483 of 1993 on the file of the Labour Court-III, Hyderabad. The Labour Court, vide its award dated 23.12.1996, though held that punishment of dismissal from service is disproportionate, but since the 2nd respondent lost confidence in the petitioner, instead of directing his reinstatement into service, directed the 2nd respondent-Company to calculate the pay of the petitioner as on the date of dismissal and grant him the increments due from the date of dismissal to the date of the award, and pay him one year's salary as compensation as may be drawn by him as on the date of award. Assailing the said

award of the Industrial Tribunal, in so far as it denied reinstatement into service with continuity of service, backwages and other attendant benefits, the petitioner filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-Company.

4. Learned counsel for the petitioner submitted that the Labour Court, having held that the misconduct is not proved in substance and that the order of removal is completely disproportionate to the misconduct alleged, committed an error in not awarding reinstatement into service, back wages and other attendant benefits to the petitioner. Though he advanced such an argument, he submitted that since the 2nd respondent is not inclined to take the petitioner into service, he prayed that the compensation awarded by the Labour Court may be enhanced from one year's pay to one and half year pay, in lieu of reinstatement, back wages etc.

5. The learned Standing Counsel appearing on behalf of the 2nd respondent-Company though vehemently opposed for the enhancement of compensation, he however, later agreed.

6. As can be seen from the award, the Labour Court found that the misconduct alleged against the petitioner is not proved in substance in the strict sense, but is purely technical violation of few rules, and having found so, it held that order of removal is completely disproportionate to the misconduct proved. Since the 2nd respondent is not inclined to take the petitioner into service, it would not be proper for this Court to direct the respondents to reinstate the petitioner into service. However, having regard to the agreed stand taken by both the counsel, that instead of year's salary another six months salary be granted to the petitioner as

compensation in lieu of his reinstatement into service, I deem it appropriate to dispose of the writ petition with the following directions:

6. The impugned award of the Labour Court, to the extent it refused to order reinstatement of the petitioner into service, is upheld. However, the 2nd respondent-Company, is directed to pay one and half year's salary as compensation to the petitioner, instead of one year's salary, award by the Labour Court, within a period of six weeks from the date of receipt of a copy of this order. No costs.

7. Accordingly the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 21.03.2007

sj